MC(N) 1006/2006

BEFORE

THE HON’BLE MR. JUSTICE B.P. KATAKEY

Perused the affidavit dated 07.06.2011 filed by the applicant, enclosing therewith the publication dated 10.12.2009 of the English newspaper (The Assam Tribune), wherein the notices for service on the respondent Nos.4 and 5, namely, Smt. Ghasu Devi Sarma and Sri Kapil Dev Sarma was published fixing 11.12.2009 as the date for appearance.

Such publication was done pursuant to the order dated 06.11.2009.

Having perused the averments made in the affidavit as well as the publication of the aforesaid newspaper, the service on the respondent Nos.4 and 5 is accepted.

None appears for the respondent Nos.4 and 5, hence the proceeding will proceed ex-parte against them.

The other respondents except the respondent No.3 have also not entered appearance, despite service. Therefore, this proceeding shall proceed ex-parte against them also.

The respondent No.3 is represented by Ms. Roy, learned counsel.

Heard Mr. Dutta, learned counsel for the applicant and Ms. Roy, learned counsel appearing for the respondent No.3.

The applicant by the present application is seeking condonation of delay of 119 days in preferring the appeal.

Having heard the learned counsel appearing for the parties and upon perusal of the averments made in the application seeking condonation of delay, which are not disputed by any of the respondents by filing any affidavit, I am of the view that the applicant was prevented by sufficient cause in not filing the appeal in time. Hence the delay occurred in filing the appeal is condoned.

Misc. case stands allowed.